

# **EXHIBIT C**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
MDL DOCKET NO. 1629

In re: NEURONTIN MARKETING,	)	
	)	
SALES PRACTICES AND PRODUCTS	)	DEPOSITION UPON
	)	ORAL EXAMINATION
LIABILITY LITIGATION.	)	OF
	)	RUTH B. SMITH
	)	
	)	V O L U M E 1
	)	

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T R A N S C R I P T of the stenographic  
notes of JANE LORFING COLWELL, a Certified Shorthand  
Reporter and Notary Public of the State of New  
Jersey, taken at the Four Points by Sheraton Newark  
Airport, 901 Spring Street, Elizabeth, New Jersey, on  
Thursday, April 12, 2007, commencing at 9:09 a.m.

REPORTING SERVICES ARRANGED THROUGH:  
VERITEXT REPORTING COMPANY  
25B Vreeland Road, Suite 301  
Florham Park, New Jersey 07932

## 1 APPEARANCES:

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 9 BY: KENNETH J. FERGUSON, ESQ.  
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 10 For the Defendants Pfizer and Warner-Lambert  
 11

## 12 ALSO PRESENT:

13 Daniel McClutchy, Videographer  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 (Exhibit 1, Copy of Medical Records with  
 2 Handwritten Notations, marked for  
 3 identification.)

4 THE VIDEOGRAPHER: Good morning. My  
 5 name is Daniel McClutchy of Veritext/New Jersey. The  
 6 date today is April 12, 2007, and the time is  
 7 approximately 9:09 a.m.

8 This deposition is being held at the  
 9 Four Points Sheraton in Elizabeth, New Jersey, 901  
 10 Spring Street. The caption of this case is In re:  
 11 Neurontin Marketing, Sales Practices and Products  
 12 Liability Litigation in the U.S. District Court,  
 13 District of Massachusetts, Docket No. 1629, Master  
 14 File No. 04109811. The name of the witness is Ruth  
 15 B. Smith.

16 At this time the attorneys will identify  
 17 themselves and the parties they represent, after  
 18 which our court reporter, Jane Colwell, will swear in  
 19 the witness and we can proceed.

20 MR. FINKELSTEIN: On behalf of Richard  
 21 Smith, Ruth Smith, and the Smith family, Andrew  
 22 Finkelstein, Finkelstein Partners.

23 MR. FERGUSON: Ken Ferguson, Clark,  
 24 Thomas & Winters, in Austin, Texas, representing  
 25 Warner-Lambert and Pfizer.

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## 3 RUTH B. SMITH

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## 6 EXHIBITS

## 7 EXHIBIT DESCRIPTION MARKED

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 Handwritten Notations  
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10 2 Page from Questionnaire 100

11 3 Eckerd Rx Advisor 142

12 4 Letter Written by Dr. Wood 159

13 5 Copy of Handwritten Note 182  
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1 RUTH B. SMITH,  
 2 301 Autumn Chase Drive, Nashville, Tennessee  
 3 37214, having been first duly sworn, testifies  
 4 as follows:

## 5 DIRECT EXAMINATION BY MR. FERGUSON:

6 Q Would you state your full name, please,  
 7 ma'am.

8 A Ruth B. Smith.

9 Q What is your address?

10 A 301 Autumn Chase Drive, Nashville,  
 11 Tennessee, ZIP code 37214.

12 Q Could you give us your date of birth,  
 13 please.

14 A Yes. 2/28/26.

15 Q And could you give your Social Security  
 16 number to us, please.

17 A 142-22-3019.

18 Q Have you ever given a deposition like  
 19 this before, or is this the first time?

20 A My first time.

21 Q And I am sure you talked to your  
 22 attorney about what will be going on today; correct?

23 A Yes.

24 Q I will be asking you some questions  
 25 regarding your claim against my clients. You

1 MR. FERGUSON: Sure. April 30 of 2003.  
 2 Q So within a month after the surgery --  
 3 about a month after the surgery; right?  
 4 A Yes.  
 5 Q Do you recall your husband being very  
 6 concerned because he was continuing with pain a month  
 7 or so out from the surgery?  
 8 A I would be concerned myself. And I'm  
 9 sure he was concerned.  
 10 Q And did he tell you he was concerned?  
 11 A He didn't exactly say that words that I  
 12 recall.  
 13 Q On May 2, 2003, there's a note from  
 14 Dr. McCombs' office indicating they spoke with  
 15 patient's daughter. Do you know which daughter that  
 16 would have been who may have called Dr. McCombs'  
 17 office?  
 18 A I actually do not know, to be honest,  
 19 which doctor -- I mean which daughter. I've got four  
 20 at the time, so I don't know.  
 21 Q Sure. And did some of the -- your four  
 22 daughters take more of a -- become more involved in  
 23 your husband's care as opposed to others?  
 24 A No.  
 25 Q So they were all obviously all

1 interested, but --  
 2 A Sure.  
 3 Q -- but you can't say which one you think  
 4 was more likely to have called?  
 5 A That's correct.  
 6 Q And the comment here says, "spoke with  
 7 patient's daughter. States patient wishes he could  
 8 die because of pain and depression."  
 9 Did you ever have any discussion with  
 10 any of your daughters regarding the fact that they  
 11 believed that your husband wishes he could die  
 12 because of pain and depression?  
 13 A He never did express that to me, but  
 14 evidently he did to the girls at times. I am not  
 15 aware of it, not actually.  
 16 Q And you said he never expressed that to  
 17 you; correct?  
 18 A Not that I could die.  
 19 Q What -- did he make any expression to  
 20 you of concern about not wanting to go on because of  
 21 the pain, anything like that?  
 22 A No.  
 23 MR. FINKELSTEIN: At any time?  
 24 MR. FERGUSON: Well, let's focus on this  
 25 May 2, 2003, period.

1 Q Did he tell you that then, let's say in  
 2 the month or so following the surgery on his back,  
 3 did he ever say "I just can't go on like this"?  
 4 Anything like that?  
 5 A I don't recall if he did.  
 6 Q Have you ever had conversations with  
 7 your daughters at any time up to the present in which  
 8 any of them indicated to you that he had told them  
 9 that he said he wishes he could die or couldn't go on  
 10 because of the pain?  
 11 A Well, Ken, there's a lot of conversation  
 12 that goes on. I don't recall.  
 13 Q There's a note from May the 5th of 2003  
 14 from Dr. McCombs indicating your husband actually  
 15 went to see him on that day, and Dr. McCombs noted he  
 16 developed new symptoms of increased leg pain.  
 17 Do you recall in this early May time  
 18 period that he was reporting having increased leg  
 19 pain?  
 20 A The pain just went on so much that I  
 21 don't recall any specific stuff.  
 22 Q On this visit, according to Dr. McCombs'  
 23 note, it says he was given a prescription for two  
 24 medications, including one called Neurontin. Were  
 25 you present at that appointment where Dr. McCombs

1 indicated that he prescribed Neurontin?  
 2 A Yes.  
 3 Q And how did you happen to be along on  
 4 that visit?  
 5 A Well, I probably drove the car for him.  
 6 Q During this time period he was unable to  
 7 drive on his own?  
 8 A He could, but I just felt like it was  
 9 better if I would drive.  
 10 Q So did you go in and talk to the doctor,  
 11 or did you wait in the waiting room for him?  
 12 A That's a rather large office. I don't  
 13 recall when I went -- I may have gone back into just  
 14 the hall, but not into the room with him.  
 15 Q Do you personally recall any discussion  
 16 that you heard from the doctor regarding the drug  
 17 Neurontin?  
 18 A No, I don't.  
 19 Q And same, do you recall any discussion  
 20 from any of the doctor's office staff on that visit  
 21 on May 5 of 2003 regarding the drug Neurontin?  
 22 A No.  
 23 Q Did you have a discussion that day with  
 24 your husband about a prescription that Dr. McCombs  
 25 may have given for the drug Neurontin?

1 A No.  
 2 Q If you get a prescription -- during that  
 3 time period, if your husband had gotten a  
 4 prescription, where would he have filled that  
 5 prescription?  
 6 A Eckerd's drugstore.  
 7 Q Any particular Eckerd's drugstore?  
 8 A On Gallatin, G-A-L-L-A-T-I-N, Road.  
 9 Q Does that Eckerd's still exist?  
 10 A It does.  
 11 Q Is it an Eckerd's still?  
 12 A Yes.  
 13 Q Hasn't turned into a CVS?  
 14 A No, there's one on the other corner,  
 15 though, and a Walgreens, also.  
 16 Q On this visit on May 5 of 2003, assuming  
 17 your husband was either prescribed or given  
 18 Neurontin, you didn't know anything about it?  
 19 A No.  
 20 Q Did you personally ever -- and I am  
 21 going -- fast forwarding here ahead until the time of  
 22 his death -- did you ever have any discussion with  
 23 your husband at all about the drug Neurontin?  
 24 A No.  
 25 Q Were you ever aware during his lifetime

1 medication called Neurontin? When did I become aware  
 2 of that?  
 3 Q Yes.  
 4 A Well, I became aware of it when I picked  
 5 up the prescription for him.  
 6 Q All right. And when was that?  
 7 A March the 9th. We are not up to that  
 8 yet, are you, of 2004?  
 9 Q No, we are not -- I am fast forwarding  
 10 here so just -- so on March 9 of 2004 you became  
 11 aware that he was on a drug called Neurontin because  
 12 you physically went and picked up the prescription  
 13 for him?  
 14 A I did.  
 15 Q If he had ever been on the drug  
 16 Neurontin before March 9 of 2004, is it fair to say  
 17 you weren't aware of it at that time?  
 18 A Yes.  
 19 Q Again, focusing back on the May 5 of  
 20 2003 visit that you drove him to when he saw  
 21 Dr. McCombs, even if he didn't use the name of the  
 22 drug Neurontin, did he say he was on any new  
 23 medications or Dr. McCombs had prescribed any new  
 24 medications for him when you talked to him on that  
 25 day?

1 that he had been on a drug called Neurontin?  
 2 A During his lifetime?  
 3 Q Yes, ma'am.  
 4 A No.  
 5 Q So you know we are here talking about a  
 6 case that involves the drug Neurontin.  
 7 A Right.  
 8 Q But the first time you ever even knew  
 9 your husband had ever taken Neurontin was sometime  
 10 after his death; is that accurate?  
 11 A Oh, I knew he was on Neurontin before  
 12 his death, but I didn't know anything about the drug.  
 13 MR. FINKELSTEIN: He's simply asking  
 14 your awareness that he was taking it.  
 15 THE WITNESS: He was taking or wasn't?  
 16 MR. FINKELSTEIN: Was taking it at any  
 17 time.  
 18 THE WITNESS: Yes.  
 19 Q Let me be clear.  
 20 A Okay.  
 21 Q When did you become aware -- and I am  
 22 not saying you know anything about the drug Neurontin  
 23 or knew anything -- but when did you become aware  
 24 that he was taking a medication called Neurontin?  
 25 A That I was aware that he was taking a

1 A When I talked to whom?  
 2 Q When you talked to Richard, did he tell  
 3 you he was on any new medications?  
 4 A No.  
 5 Q And I understand he was on a number of  
 6 medications over the years.  
 7 A Yes.  
 8 Q And you all probably didn't discuss each  
 9 one.  
 10 A No.  
 11 Q But I am just trying to focus on whether  
 12 there was any conversation regarding Neurontin or a  
 13 new medication he was on back on May 5 of 2003. You  
 14 don't recall that?  
 15 A I don't recall him being on one.  
 16 Q It appears that your husband went to see  
 17 Dr. Cato, your primary care physician, on May 15 of  
 18 2003. Do you know if you would have driven him to  
 19 that appointment or gone along with him on that  
 20 appointment?  
 21 A I don't recall. I could have. I don't  
 22 recall.  
 23 Q In that record, Dr. Cato -- is Dr. Cato  
 24 a physician who has known -- knew Richard for a  
 25 number of years?